UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KAHREEM PERRY,

                            Plaintiff,

              -against-

DAVID ROBLES; YVETTE AGOSTO,

                            Defendants.

23-CV-7696 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who currently is incarcerated at the Otis Bantum Correctional Center, brings this *pro se* action under 42 U.S.C. § 1983. He alleges that Defendants abused the judicial process, and as a result, he was arrested. For the following reasons, the complaint is dismissed.

Plaintiff has previously submitted to this court the same complaint against Defendants, alleging the same allegations. That case is pending before the Court under docket number 23-CV-7492 (LTS). Because this newly filed complaint raises the same claims as raised in the 23-CV-7492 action, no useful purpose would be served by the filing and litigation of this duplicate lawsuit. Therefore, this complaint is dismissed without prejudice to Plaintiff's pending case under docket number 23-CV-7492.

In light of the Court's belief that Plaintiff may have submitted this duplicate complaint in error, the Court directs the Clerk of Court not to charge Plaintiff the $350.00 filing fee for this action, and the Warden or Superintendent having custody of Plaintiff shall not deduct or encumber funds from Plaintiff's prison trust account for this lawsuit.

### CONCLUSOIN

The Court dismisses Plaintiff's complaint as duplicative of *Perry v. Robles*, No. 23-CV-7492.

The Court directs the Clerk of Court not to charge Plaintiff the $350.00 filing fee for this action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal.  *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Court directs the Clerk of Court to enter judgment in this action.

SO ORDERED.

Dated:    September 21, 2023
          New York, New York

                                    /s/ Laura Taylor Swain
                                    LAURA TAYLOR SWAIN
                                    Chief United States District Judge

2